



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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MARCH 11, 2013

Regular meeting of the City Council held on Monday, MARCH 11, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 8:30 PM.

ORDERED: That the minutes of the City Council Meeting FEBRUARY 25, 2013, **FILE**; adopted.

ORDERED: That the **CONTINUED PUBLIC HEARING** On the Petition from NGrid to install six new heavy duty hand holes in the area of Bigelow Heights, URD, Bergeron Rd, Ahlgren Circle, Duca Dr., Rodgers Ave., Evelina Dr. and Houde St., Order No. 12/13-1005285, all were heard who wish to be heard, hearing recessed at 8:15 p.m.; adopted.

Councilors Present: Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.

Councilor Pope abstained

ORDERED: That City Clerk's transfer request in the amount of \$18,712.85 which moves funds from Assistant City Clerk to appropriate \$14,680.85 to Pollworker and \$4,032.00 to Constables to fund Special State Elections, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT: City Clerk/Election					FISCAL YEAR: 2013				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$39,315.16	\$18,712.85	11610002	50290	Assistant City Clerk	\$14,680.85	11620006	53871	Poll Workers	\$5,400.00
				Reason: Fund two Special State Elections	\$4,032.00	11620003	51460	Constables at Poll	\$5,968.00
	\$18,712.85	Total			\$18,712.85	Total			

ORDERED: That the Comptroller's transfer request in the amount of \$10,308.00 which moves funds from Bond Issue Expense to Finance Assistant to fund costs associated with the unanticipated short term absence of payroll personnel, be and is herewith refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11330006-57850 \$10,308.00
Bond issue Expense

TO:

Acct. # 11330002-50062 \$10,308.00
Finance Assistant

Councilor Seymour abstained

ORDERED: That the Mayor's request to modify Line Item Budget Presentation, **DOES NOT CARRY**; adopted.

ORDERED: That the Reappointment of Chief Procurement Officer, Beverly Sleeper, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Joseph Collins to the Board of Assessors for a term of three years to take effect on the 1s Monday after City Council, refer **BACK TO THE MAYOR**; adopted.

ORDERED: That the Appointment of Lynn Anderson as a member of the Council on Aging for a term of four years to expire on the 1st Monday in Mayo following a City Council meeting, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Construction Materials Service, Inc. re: request to extend time limitations on application for Special Permit, 379 South St., to construct a new 2400 sq. ft. office building on a nonconforming property to May 8, 2013 until 5:00 PM, Order No 12/13-1005236B, **APPROVED**; adopted.

ORDERED: That the Communication from MetroPCS Massachusetts, LLC re: request to extend time limitations on Application for Special Permit, 98 Pleasant St. to install wireless communication facility onto the existing building to June 4, 2013 until 12:59 PM., Order No. 12/13-1005122D, **APPROVED**; adopted.

Councilor Tunnera abstained

ORDERED: That the Minutes, Planning Board, February 11, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, January 9, 2013 **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, February 12, 2013, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, January 29, 2013, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Alex Knaf, 502 Williams St., residential mailbox claim 2(a)
- B. Anthony Pikul, 30 Baker Dr., residential mailbox claim 2(a)
- C. F. Ty Edmondson, 768 Hemenway St., other property damage

Reports of Committees:

Councilor Ossing reported the following out of Finance Committee:

Present: Chairman Ossing; Finance Committee members Councilors Delano, Seymour, Jenkins, and Oram. Councilors Clancy, Landers, and Robey were also in attendance. The meeting convened at 7:06 PM.

Order No. 13-1005318 – Transfer \$124,328.00 for DPW Mid Year Transfers. - The Finance Committee reviewed the Mayor's letter dated February 7, 2013 requesting DPW transfers to fund line items associated with employee promotions, interim/temporary promotions due to absences and vacancies, and police overtime associated with water and sewer maintenance and repairs totaling \$124,328.00. **The Finance Committee voted 5 - 0 to approve the transfers.**

Order No. 13-1005333 – Transfer \$30,000.00 Internal to the Assessor's Office. - The Finance Committee reviewed the Mayor's letter dated February 21, 2013 requesting two transfers totaling \$30,000.00 to fund contracted appraisal services for the 4th quarter of FY2013. **The Finance Committee voted 5 - 0 to approve the transfers.**

Order No. 12-1005204 – Transfer \$2,000,000.00 from Undesignated Funds to OPEB Stabilization Account. - The Finance Committee reviewed the Mayor's letter dated November 1, 2012 requesting the transfer of \$2,000,000.00 from Undesignated Funds to the Other Post Employment Benefits (OPEB) Space Stabilization account to continue the City's financial plan to meet these unfunded responsibilities. **The Finance Committee voted 5 - 0 to approve the transfers.**

The Finance Committee adjourned at 8:00 PM.

Councilor Elder reported the following out of Urban Affairs Committee:

Present: Chairman Elder, Councilors Clancy, Landers, Robey and Tunnera
Also Present: Atty. Bergeron on behalf of Boston Scientific

Order No. 13-1005306A - Communication from Attorney Arthur Bergeron requesting changes to the City of Marlborough's Zoning Ordinance on behalf of Boston Scientific who recently announced plans to build large, new office building at its existing campus here in Marlborough and to relocate its headquarters here. The proposed zoning ordinance will allow for the development of this project. Atty. Bergeron outlined the proposed changes which would take part throughout the City but is specifically being sought to permit Boston Scientific to add a new building on their campus. Building Commissioner Mendoza stated that the three changes would not have any real impact throughout other parcels in the City, and the Commissioner had no concern about the proposed amendment.

Motion made by Councilor Clancy, seconded by the Chair, to approve the first three changes, in three separate motions. The Chairman requested that the committee table further discussion on the fourth proposed change regarding building height. Vote 5-0 to recommend approval of the proposed amendment, deleting all reference to building height.

Recommendation of the Urban Affairs Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form for the March 25, 2013 agenda.

Councilor Elder reported the following out of Urban Affairs Committee:

Present: Chairman Elder, Councilors Clancy, Landers, Robey and Tunnera
Also Present: Councilors Jenkins, Delano and President Pope; Attorney Lombardo for Cumberland Farms

Order No. 12/13-1005220A, X-12-1005081 - Application for Special Permit from Cumberland Farms Inc., 412 and 418 Maple Street and Walker Street to construct a convenience store with gasoline sales on the subject parcels and to operate new facility from 5AM to midnight. The hours of operation have been amended from the 24-hour operation sought under its prior submission.

-REFER TO URBAN AFFAIRS

PUBLIC HEARING: DECEMBER 17, 2012

The Chair read the changes to the proposed conditions discussed at the previous meetings, with other input from the City Solicitor and Atty. Lombardo.

Attorney Lombardo resisted the committee's language regarding the city's sign ordinance and the language that the city has implemented in various special permits.

Councilor Jenkins informed the committee that he would not be supporting the project as the ward representative and urged other members of the committee to join him in opposition.

Motion by Councilor Clancy to recommend approval, with the Chair giving a courtesy second to the motion. Vote 3 in favor; 2 opposed (Elder and Landers)

Recommendation of the Urban Affairs Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form for the March 25, 2013 agenda.

Councilor Delano reported the following out of the Operations and Oversight Committee:

Present: Chairman Delano; Councilors Elder and Landers

Also Present: Councilors Pope, Clancy, Robey and Oram; MEDC Director Tim Cummings

Order No. 12-1005262 - Communication from Mayor submitting for City Council endorsement the MEDC Master Plan titled "Building the New Marlborough Economy" (a hard copy and digital files have been filed with the City Council Office.) The Master Plan provides a roadmap that identifies goals for future growth and economic development for the foreseeable future. Having a fully endorsed Master Plan will provide a vital tool that can guide the City's growth for years to come.

-REFER TO OPERATIONS & OVERSIGHT

The committee discussed the MEDC Master Plan including the executive summary, which are both very comprehensive, lengthy documents. Chairman Delano recommended adding a City Council preamble as a way to put the body's stamp of approval on the document. Councilor Elder agreed, adding that the preamble sets a good tone of what we would like to focus on as a city. Councilor Landers also expressed support for the MEDC Plan and the proposed preamble.

The Committee discussed the preamble making minor changes to the Chairman's draft.

Motion made by Councilor Elder, seconded by the Chair, to recommend approval of the Master Plan Preamble, as amended. Vote 3-0

Councilor Landers reported the following out of the Public Services Committee:

Present: Chairman Landers and Councilor Clancy; Absent: Councilor Jenkins

Also Present: Asst. Solicitor Panagore Griffin, John Breslouf

The Public Services Committee met on March 4, 2013 at 5:30 PM to discuss the following Order referred to committee on January 7, 2013.

Order No. 13-1005286A - Communication from John Breslouf, President of JBS Development, LLC, requesting Acceptance as Public Way of GRAVES LANE together with required easements in the subdivision entitled The Residence at Oak Crest. Solicitor Panagore Griffin submitted all required documents and certified that the documents are in proper legal form for acceptance by the City Council. By February 12, 2013 letter to the Marlborough City Council, Chairman Barbara Fenby forwarded the Planning Board recommendation and vote taken on December 3, 2012 to endorse the November 15, 2012 Plan of Acceptance of Graves Lane & Municipal Easements. **On a motion made by Councilor Clancy, seconded by the Chair, the Public Services Committee recommends the acceptance as a Public Way of GRAVES LANE, together with required easements in the subdivision entitled The Residence at Oak Crest. Vote 2-0.**

Suspension of Rules requested – granted

ORDERED: That the following On Proposed Zoning Amendment by Attorney Bergeron to Sections 650-40(F), 48(C)(1) and 47(F), Order No. 13-1005306, as follows:

1) That Sec. 650-40(F) be amended by adding thereto the following new subsection 11

“(11) Bridges, walkways or passageways, enclosed or otherwise, connecting buildings located on different lots in a Limited Industrial district shall not thereby violate any lot setback provision of any building or buildings connected by said structures “

2) That Section 650-48(C)(1) be amended by adding thereto, at the end thereof, the following sentence:

“In a Limited Industrial district, the parking shall be provided within 500 feet of the building or structure to be served, on the building lot, on any lot under the same ownership, or on any lot subject to an easement to the owner of said building to be served which, in the opinion of the Building Commissioner, causes said parking to be available for the purposes of this section.”

3) That Section 650-47(F) be amended by adding thereto the following subsection 5:

(5) In all Limited Industrial districts, the side yard landscaping requirement shall not apply to side yard or rear yard lines that bisect parking lots, if both lots are in common ownership or if there are parking easements that, in the opinion of the Building Commissioner, adequately allow for parking in one lot by persons using the other lot.

4) That the Table of Lot Areas, Yards and Height of Structures, which is referred to in Section 650-41, be amended by adding to the table of heights and their relationship to their distance from a Residential zone, the following:

“Over 500 feet from a residential zone: 85 feet”

Refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE MARCH 25, 2013 CITY COUNCIL MEETING**; adopted.

Suspension of Rules requested – granted

ORDERED: That the Application for Special Permit from Cumberland Farms Inc., 412 & 418 Maple St. and Walker St. to construct a convenience store with gasoline sales on the subject parcels and to operate new facility from 5:00 AM to midnight, Order No. 12-1005220A, X-12-100508, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE MARCH 25, 2013 CITY COUNCIL MEETING**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS MOST RECENTLY AMENDED, BE FURTHER AMENDED BY AMENDING THE ZONING ORDINANCE AS FOLLOWS:

1. Adding to Section 650-5.B a definition for “Data Storage/Telecommunications Facility”, in alphabetical order, as follows:

DATA STORAGE/TELECOMMUNICATIONS FACILITY

A building for the operation, monitoring, and maintenance of data storage computers, telecommunications equipment and ancillary equipment, including appurtenant office space.

2. Adding to the Table of Use Regulations, Section 650-17, a category for “Data Storage/Telecommunications Facilities” under “Industrial Uses”, as follows:

	Zoning District Abbreviations										
	RR	A-1	A-2	A-3	RB	RC	RCR	B	CA	LI	I
Industrial Use											
Data storage/telecommunications facilities	N	N	N	N	N	N	N	N	N	Y	Y

3. Adding to Section 650-48.A a new item (15) as follows:

- (15) Data storage/telecommunications facilities shall provide one parking space for each 2,500 square feet of building area; provided, however, that the site plan for a data storage/telecommunications facility shall provide an area labeled as "Reserve Parking Area" on the site plan, to be maintained as existing natural vegetation or as landscaped area, said Reserve Parking Area to be sufficient in size to accommodate the parking requirements in existence at the time for an office use at the site.

APPROVED; adotped.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:30 PM.